

**Crimes Listed for the Violent Offender Registration Law for the Commission's
Consideration of the 15-year Waiting Period in 2007 HB 2295**

The commission shall not consider for 15 years an application for license if: (1) the applicant has entered a plea of guilty or nolo contendere to, or has been convicted of: (A) any offense that is comparable to any crime which would subject the applicant to offender registration under K.S.A. 22-4902; or (B) any federal, military or other state conviction for an offense that is comparable to any crime under the laws of this state which would subject the applicant to offender registration under K.S.A. 22-4902. The 15-years do not begin to run until the sentence has been served. This includes completion of any probation or post-release supervision. After the 15-year waiting period ends, the Commission will apply discretion as provided in the bill as to whether the applicant now possesses a good reputation for honesty, integrity, trustworthiness and competency to be a real estate licensee in a manner to safeguard the public interest.

Below are the felony offenses listed under K.S.A. 22-4902:

1) Any person who is convicted of any of the following crimes when the victim is less than 18 years of age:

- **K.S.A. 21-3420. Kidnapping.** Kidnapping is the taking or confining of any person, accomplished by force, threat or deception, with intent to hold such person:

- (a) For ransom, or as a shield or hostage;
- (b) to facilitate flight or the commission of any crime;
- (c) to inflict bodily injury or to terrorize the victim or another; or
- (d) to interfere with the performance of any governmental or political function.

- **K.S.A. 21-3421. Aggravated kidnapping.** Aggravated kidnapping is kidnapping, as defined in K.S.A. 21-3420 and amendments thereto, when bodily harm is inflicted upon the person kidnapped.

- **K.S.A. 21-3424. Criminal restraint.** (a) Criminal restraint is knowingly and without the legal authority restraining another person so as to interfere substantially with such person's liberty.

2) Any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

- **K.S.A. 21-3507. Adultery.** (1) Adultery is engaging in sexual intercourse or sodomy with a person who is not married to the offender if:

- (a) The offender is married; or
- (b) The offender is not married and knows that the other person involved in the act is married.

- **K.S.A. 21-3505. Criminal sodomy.** (a) Criminal sodomy is: . . .
(2) sodomy with a child who is 14 or more years of age but less than 16 years of age; or
(3) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.

- K.S.A. 3513. Promoting prostitution. (a) Promoting prostitution is:

- (1) Establishing, owning, maintaining or managing a house of prostitution, or participating in the establishment, ownership, maintenance, or management thereof;
- (2) permitting any place partially or wholly owned or controlled by the defendant to be used as a house of prostitution;
- (3) procuring a prostitute for a house of prostitution;
- (4) inducing another to become a prostitute;
- (5) soliciting a patron for a prostitute or for a house of prostitution;
- (6) procuring a prostitute for a patron;
- (7) procuring transportation for, paying for the transportation of, or transporting a person within this state with the intention of assisting or promoting that person's engaging in prostitution; or
- (8) being employed to perform any act which is prohibited by this section.

- K.S.A. 21-3515. Patronizing a prostitute. (1) Patronizing a prostitute is either:

- (a) Knowingly entering or remaining in a house of prostitution with intent to engage in sexual intercourse, sodomy or any unlawful act with a prostitute; or
- (b) knowingly hiring a prostitute to engage in sexual intercourse, sodomy or any unlawful sexual act.

- K.S.A. 21-3508. Lewd and lascivious behavior. (a) Lewd and lascivious behavior is:

- (1) Publicly engaging in otherwise lawful sexual intercourse or sodomy with knowledge or reasonable anticipation that the participants are being viewed by others;
- (2) publicly exposing a sex organ or exposing a sex organ in the presence of a person who is not the spouse of the offender and who has not consented thereto, with intent to arouse or gratify the sexual desires of the offender or another.

- K.S.A. 21-3520. Unlawful sexual relations. (a) Unlawful sexual relations is engaging in consensual sexual intercourse or sodomy with a person who is not married to the offender if:

- (1) The offender is an employee of the department of corrections or the employee of a contractor who is under contract to provide services in a correctional institution and the person with whom the offender is engaging in consensual sexual intercourse or sodomy is an inmate; or
- (2) the offender is a parole officer and the person with whom the offender is engaging in consensual sexual intercourse or sodomy is an inmate who has been released on parole or conditional release or post-release supervision under the direct supervision and control of the offender.

3) Any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, to commit an offense in subsections (1) and (2);

4) Any person who has been convicted of any sexually violent crime.

"Sexually violent crime" means:

- **K.S.A. 21-3502. Rape.** (a) Rape is: (1) Sexual intercourse with a person who does not consent to the sexual intercourse, under any of the following circumstances:

(A) When the victim is overcome by force or fear;

(B) when the victim is unconscious or physically powerless; or

(C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender; or

(2) sexual intercourse with a child who is under 14 years of age.

- **K.S.A. 21-3503. Indecent liberties with a child.** (a) Indecent liberties with a child is engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age:

(1) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(2) soliciting the child to engage in any lewd behavior or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

- **K.S.A. 21-3504. Aggravated indecent liberties with a child.**

(a) Aggravated indecent liberties with a child is:

(1) Sexual intercourse with a child who is 14 or more years of age but less than 16 years of age;

(2) engaging in any of the following acts with a child who is 14 or more years of age but less than 16 years of age and who does not consent thereto:

(A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or satisfy the sexual desires of either the child or the offender, or both; or

(B) causing the child to engage in any lewd fondling or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another; or

(3) engaging in any of the following acts with a child who is under 14 years of age:

(A) Any lewd fondling or touching of the person of either the child or the offender, done or submitted to with the intent to arouse or to satisfy the sexual desires of either the child or the offender, or both; or

(B) soliciting the child to engage in any lewd behavior or touching of the person of another with the intent to arouse or satisfy the sexual desires of the child, the offender or another.

- **K.S.A. 21-3505. Criminal sodomy.** (a) Criminal sodomy is: . . .

(2) sodomy with a child who is 14 or more years of age but less than 16 years of age; or

(3) causing a child 14 or more years of age but less than 16 years of age to engage in sodomy with any person or animal.

- **K.S.A. 21-3506. Aggravated criminal sodomy.** (a) Aggravated criminal sodomy is:

(1) Sodomy with a child who is under 14 years of age;

(2) causing a child under 14 years of age to engage in sodomy with any person or an animal;

(3) sodomy with a person who does not consent to the sodomy or causing a person, without the person's consent, to engage in sodomy with any person or an animal, under any of the following circumstances:

(A) When the victim is overcome by force or fear;

(B) when the victim is unconscious or physically powerless; or

(C) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by the offender or was reasonably apparent to the offender.

- **K.S.A. 21-3510. Indecent solicitation of a child.** (a) Indecent solicitation of a child is:

(1) Enticing or soliciting a child 14 or more years of age but less than 16 years of age to commit or submit to an unlawful sexual act; or

(2) inviting, persuading or attempting to persuade a child 14 or more years of age but less than 16 years of age to enter any vehicle, building, room or secluded place with intent to commit an unlawful sexual act upon or with the child.

- **K.S.A. 21-3511. Aggravated indecent solicitation of a child.** Aggravated indecent solicitation of a child is:

(a) Enticing or soliciting a child under the age of 14 years to commit or submit to an unlawful sexual act; or

(b) inviting, persuading or attempting to persuade a child under the age of 14 years to enter any vehicle, building, room or secluded place with intent to commit an unlawful sexual act upon or with the child.

- K.S.A. 21-3516. Sexual exploitation of a child. (a) Sexual exploitation of a child is:

(1) Employing, using, persuading, inducing, enticing or coercing a child under 16 years of age to engage in sexually explicit conduct for the purpose of promoting any performance;

(2) possessing any film, photograph, negative, slide, book, magazine or other printed or visual medium or any audio tape recording or any photocopy, video tape, video laser disk, computer hardware, software, floppy disk or any other computer related equipment or computer generated image that contains or incorporates in any manner any film, photograph, negative, photocopy, video tape or video laser disk in which a real child under 16 years of age is shown or heard engaging in sexually explicit conduct with intent to arouse or satisfy the sexual desires or appeal to the prurient interest of the offender, the child or another;

(3) being a parent, guardian or other person having custody or control of a child under 16 years of age and knowingly permitting such child to engage in, or assist another to engage in, sexually explicit conduct; or

(4) promoting any performance that includes sexually explicit conduct by a child under 16 years of age, knowing the character and content of the performance.

- K.S.A. 21-3517. Sexual battery. (a) Sexual battery is the intentional touching of the person of another who is 16 or more years of age, who is not the spouse of the offender and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.

- K.S.A. 21-3518. Aggravated sexual battery. (a) Aggravated sexual battery is the intentional touching of the person of another who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another under any of the following circumstances:

(1) When the victim is overcome by force or fear;

(2) when the victim is unconscious or physically powerless;
or

(3) when the victim is incapable of giving consent because of mental deficiency or disease, or when the victim is incapable of giving consent because of the effect of any alcoholic liquor, narcotic, drug or other substance, which condition was known by, or was reasonably apparent to, the offender.

- K.S.A. 21-3603. Aggravated incest. (a) Aggravated incest is:

(1) Marriage to a person who is under 18 years of age and who is known to the offender to be related to the offender as any of the

following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle aunt, nephew or niece; or

(2) engaging in: (A) Otherwise lawful sexual intercourse or sodomy as defined in K.S.A. 21-3501 and amendments thereto; or (B) any lewd fondling, as described in subsection (a)(1) of K.S.A. 21-3503 and amendments thereto, with a person who is 16 or more years of age but under 18 years of age and who is known to the offender to be related to the offender as any of the following biological, step or adoptive relatives: Child, grandchild of any degree, brother, sister, half-brother, half-sister, uncle, aunt, nephew or niece.

5) Any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, to commit a sexually violent crime in subsection (4);

6) Any person who has been convicted of any of the following violent crimes:

- **K.S.A. 21-3439. Capital murder.** (a) Capital murder is the:

(1) Intentional and premeditated killing of any person in the commission of kidnapping, as defined in K.S.A. 21-3420 and amendments thereto, or aggravated kidnapping, as defined in K.S.A. 21-3421 and amendments thereto, when the kidnapping or aggravated kidnapping was committed with the intent to hold such person for ransom;

(2) intentional and premeditated killing of any person pursuant to a contract or agreement to kill such person or being a party to the contract or agreement pursuant to which such person is killed;

(3) intentional and premeditated killing of any person by an inmate or prisoner confined in a state correctional institution, community correctional institution or jail while in custody of an officer or employee of a state correctional institution, community correctional institution or jail;

(4) intentional and premeditated killing of the victim of one of the following crimes in the commission of, or subsequent to, such crime: Rape, criminal sodomy, aggravated criminal sodomy, or any attempt thereof;

(5) intentional and premeditated killing of a law enforcement officer;

(6) intentional and premeditated killing of more than one person as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct; or

(7) intentional and premeditated killing of a child under the age of 14 in the commission of kidnapping or aggravating kidnapping when the kidnapping or aggravated kidnapping was committed with intent to commit a sex offense upon or

with the child or with intent that the child commit or submit to a sex offense.

- **K.S.A. 21-3401. Murder in the first degree.** Murder in the first degree is the killing of a human being committed:

- (a) Intentionally and with premeditation; or
- (b) in the commission of, attempt to commit, or flight from an inherently dangerous felony as defined in K.S.A. 21-3436 and amendments thereto.

- **K.S.A. 21-3402. Murder in the second degree.** Murder in the second degree is the killing of a human being committed:

- (a) Intentionally; or
- (b) unintentionally but recklessly under circumstances manifesting extreme indifference to the value of human life.

- **K.S.A. 21-3403. Voluntary Manslaughter.** Voluntary manslaughter is the intentional killing of a human being committed:

- (a) Upon a sudden quarrel or in the heat of passion; or
- (b) upon an unreasonable but honest belief that circumstances existed that justified deadly force under K.S.A. 21-3211, 21-3212 or 21-3213 and amendments thereto.

- **K.S.A. 21-3404. Involuntary Manslaughter.** Involuntary manslaughter is the unintentional killing of a human being committed:

- (a) Recklessly;
- (b) in the commission of, or attempt to commit, or flight from any felony, other than an inherently dangerous felony as defined in K.S.A. 21-3436 and amendments thereto, that is enacted for the protection of human life or safety or a misdemeanor that is enacted for the protection of human life or safety, including acts described in K.S.A. 8-1566, 8-1567 or 8-1568 and amendments thereto; or
- (c) during the commission of a lawful act in an unlawful manner.

7) Any person who has been convicted of an attempt, conspiracy or criminal solicitation to commit an offense listed in subsection (6).

22-4902

**Chapter 22.--CRIMINAL PROCEDURE
KANSAS CODE OF CRIMINAL PROCEDURE
Article 49.--OFFENDER REGISTRATION**

22-4902. Definitions. As used in this act, unless the context otherwise requires:

- (a) "Offender" means: (1) A sex offender as defined in subsection (b);
- (2) a violent offender as defined in subsection (d);

(3) a sexually violent predator as defined in subsection (f);

(4) any person who, on and after the effective date of this act, is convicted of any of the following crimes when the victim is less than 18 years of age:

(A) Kidnapping as defined in K.S.A. 21-3420 and amendments thereto, except by a parent;

(B) aggravated kidnapping as defined in K.S.A. 21-3421 and amendments thereto;
or

(C) criminal restraint as defined in K.S.A. 21-3424 and amendments thereto, except by a parent;

(5) any person convicted of any of the following criminal sexual conduct if one of the parties involved is less than 18 years of age:

(A) Adultery as defined by K.S.A. 21-3507, and amendments thereto;

(B) criminal sodomy as defined by subsection (a)(1) of K.S.A. 21-3505, and amendments thereto;

(C) promoting prostitution as defined by K.S.A. 21-3513, and amendments thereto;

(D) patronizing a prostitute as defined by K.S.A. 21-3515, and amendments thereto;

(E) lewd and lascivious behavior as defined by K.S.A. 21-3508, and amendments thereto;
or

(F) unlawful sexual relations as defined by K.S.A. 21-3520, and amendments thereto;

(6) any person who has been required to register under any federal, military or other state's law or is otherwise required to be registered;

(7) any person who has been convicted of an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in subsection (4) or (5), or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in subsection (4) or (5); or

(8) any person who has been convicted of an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in subsection (4) or (5).

Convictions which result from or are connected with the same act, or result from crimes committed at the same time, shall be counted for the purpose of this section as one conviction. Any conviction set aside pursuant to law is not a conviction for purposes of this section. A conviction from another state shall constitute a conviction for purposes of this section.

(b) "Sex offender" includes any person who, after the effective date of this act, is convicted of any sexually violent crime set forth in subsection (c) or is adjudicated as a juvenile offender for an act which if committed by an adult would constitute the commission of a sexually violent crime set forth in subsection (c).

(c) "Sexually violent crime" means:

- (1) Rape as defined in K.S.A. 21-3502 and amendments thereto;
- (2) indecent liberties with a child as defined in K.S.A. 21-3503 and amendments thereto;
- (3) aggravated indecent liberties with a child as defined in K.S.A. 21-3504 and amendments thereto;
- (4) criminal sodomy as defined in subsection (a)(2) and (a)(3) of K.S.A. 21-3505 and amendments thereto;
- (5) aggravated criminal sodomy as defined in K.S.A. 21-3506 and amendments thereto;
- (6) indecent solicitation of a child as defined by K.S.A. 21-3510 and amendments thereto;
- (7) aggravated indecent solicitation of a child as defined by K.S.A. 21-3511 and amendments thereto;
- (8) sexual exploitation of a child as defined by K.S.A. 21-3516 and amendments thereto;
- (9) sexual battery as defined by K.S.A. 21-3517 and amendments thereto;
- (10) aggravated sexual battery as defined by K.S.A. 21-3518 and amendments thereto;
- (11) aggravated incest as defined by K.S.A. 21-3603 and amendments thereto; or
- (12) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to a sexually violent crime as defined in subparagraphs (1) through (11), or any federal, military or other state conviction for an offense that under the laws of this state would be a sexually violent crime as defined in this section;
- (13) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of a sexually violent crime, as defined in this section; or
- (14) any act which at the time of sentencing for the offense has been determined beyond a reasonable doubt to have been sexually motivated. As used in this subparagraph, "sexually motivated" means that one of the purposes for which the

defendant committed the crime was for the purpose of the defendant's sexual gratification.

(d) "Violent offender" includes any person who, after the effective date of this act, is convicted of any of the following crimes:

(1) Capital murder as defined by K.S.A. 21-3439 and amendments thereto;

(2) murder in the first degree as defined by K.S.A. 21-3401 and amendments thereto;

(3) murder in the second degree as defined by K.S.A. 21-3402 and amendments thereto;

(4) voluntary manslaughter as defined by K.S.A. 21-3403 and amendments thereto;

(5) involuntary manslaughter as defined by K.S.A. 21-3404 and amendments thereto; or

(6) any conviction for an offense in effect at any time prior to the effective date of this act, that is comparable to any crime defined in this subsection, or any federal, military or other state conviction for an offense that under the laws of this state would be an offense defined in this subsection; or

(7) an attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(e) "Law enforcement agency having jurisdiction" means the sheriff of the county in which the offender expects to reside upon the offender's discharge, parole or release.

(f) "Sexually violent predator" means any person who, on or after July 1, 2001, is found to be a sexually violent predator pursuant to K.S.A. 59-29a01 *et seq.* and amendments thereto.

(g) "Nonresident student or worker" includes any offender who crosses into the state or county for more than 14 days, or for an aggregate period exceeding 30 days in a calendar year, for the purposes of employment, with or without compensation, or to attend school as a student.

(h) "Aggravated offenses" means engaging in sexual acts involving penetration with victims of any age through the use of force or the threat of serious violence, or engaging in sexual acts involving penetration with victims less than 14 years of age, and includes the following offenses:

(1) Rape as defined in subsection (a)(1)(A) and subsection (a)(2) of K.S.A. 21-3502, and amendments thereto;

(2) aggravated criminal sodomy as defined in subsection (a)(1) and subsection (a)(3)(A) of K.S.A. 21-3506, and amendments thereto; and

(3) any attempt, conspiracy or criminal solicitation, as defined in K.S.A. 21-3301, 21-3302 or 21-3303 and amendments thereto, of an offense defined in this subsection.

(i) "Institution of higher education" means any post-secondary school under the supervision of the Kansas board of regents.

History: L. 1993, ch. 253, § 18; L. 1994, ch. 107, § 2; L. 1997, ch. 181, § 8; L. 1999, ch. 164, § 29; L. 2001, ch. 208, § 10; L. 2002, ch. 55, § 1; L. 2002, ch. 163, § 6; L. 2003, ch. 123, § 3; July 1.

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